
BZA-1855
RAYMOND HASSAN
Variance

STAFF REPORT
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REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, represented by attorney Joseph Bumbleburg, is seeking a variance to permit a rear setback of 17' instead of the minimum required 25' to enclose and roof a patio. The property is located at 6276 Musket Way in Shawnee Ridge Subdivision, Tippecanoe 22 (SE) 24-4. (UZO 4-2-2)

AREA ZONING PATTERNS:

This property is zoned R1, as is all surrounding land. The property in question is part of a large residential development on the west side of Battle Ground. Access to this site is gained from CR 600 N which is lined by NB, HB, R2, and R1.

AREA LAND USE PATTERNS:

This lot is part of Shawnee Ridge Subdivision. This development is an area on the west side of Battle Ground that predominantly consists of single-family homes. The house in this request was constructed in 2011.

The only variance applied for in this area was a request to reduce a front setback for an attached garage in 2008. This request was denied (BZA-1767).

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

There is a 15' drainage easement on the rear of this lot. The proposed addition will not encroach into the easement.

STAFF COMMENTS:

Petitioner wishes to construct a 12' x 21' enclosed porch onto the back of an existing house. The house was constructed in 2011 and the current owner is the first occupant of the home. There is an existing 12' x 12' concrete patio that extends into the 25' rear setback. (The ordinance allows "an unroofed porch, deck or patio" to "extend into a minimum rear setback to within 4' of a lot line.") The proposed enclosed porch would utilize the existing patio, but would also extend it by 9' along the back of the house. There is an existing easement along the rear of the property that the addition will not disturb. The rear of the property is adjacent to the side lot lines of two other homes in an adjacent subdivision.

There is sufficient area to locate an enclosed porch with a different configuration on the site without encroaching into the rear setback. A smaller addition could also be

constructed. These options may not be precisely what petitioner desires but will still allow him to have an enclosed porch.

Regarding the ballot items:

1. The Area Plan Commission at its May 16, 2012 meeting determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. Granting this variance **WILL NOT** be injurious to the public health, safety, and general welfare of the community. Allowing this area to be turned into living space will not affect the safety of any adjacent property owners.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. Allowing this addition to be walled and covered will not affect the neighbors adversely because petitioner can currently use the area for leisure activities. The proposal would only give the petitioners protection from the elements when using this area.
4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. There is nothing peculiar about the shape, size or topography of this lot. Additionally, by the fact that no variances have been granted in this area, all homes were constructed within the standard lot dimensions of the R1 zone.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The lot is already being used as a residence. The denial of this request will not prohibit the ongoing residential use of this property; therefore there is no hardship present.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. This request results from petitioner's wish to add an enclosed porch to the existing single-family home in a location where that addition does not comply.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. The minimum relief would be to use the existing single-family home and either reduce the size of the proposed addition to meet the setback or relocate the proposed addition.

STAFF RECOMMENDATION:

Denial